



2019-026

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

STEVEN T. MARSHALL
ATTORNEY GENERAL

501 WASHINGTON AVENUE
P.O. BOX 300152
MONTGOMERY, AL 36130-0152
(334) 242-7300
WWW.AGO.ALABAMA.GOV

March 20, 2019

Honorable Sid J. Trant
Secretary and General Counsel
Board of Trustees of the University of Alabama
500 University Boulevard East
Tuscaloosa, Alabama 35401

Colleges and Universities – Boards
of Trustees – Offices and Officers –
Employees, Employers, Employment
– Dismissal

The Board of Trustees of the
University of Alabama has the
exclusive and discretionary
constitutional authority to appoint
and/or remove individuals to serve
as its chief administrative officers,
including its Chancellor and campus
Presidents. No legislative act may
diminish or modify that authority.

Dear Mr. Trant:

This opinion of the Attorney General is issued in response to your
request on behalf of the Board of Trustees of the University of Alabama.

QUESTION

Does the Board of Trustees of the
University of Alabama have the exclusive and
discretionary authority as provided by the
Recompiled Constitution of Alabama to appoint
and/or remove individuals to serve as its chief

administrative officers, including specifically its
Chancellor and campus Presidents?

FACTS AND ANALYSIS

The University of Alabama is an institution of higher education separately created and authorized under the Recompile Constitution of Alabama, which specifically provides that the “university shall be under the management and control of a board of trustees.” ALA. CONST. art. XIV, § 264 (amend. 399). The Board of Trustees (“Board”) is recognized as a body corporate. ALA. CODE § 16-47-1 (2012).

Section 16-47-34 of the Code of Alabama sets forth the general powers of the Board as follows:

The board of trustees has the power to organize the university by appointing a corps of instructors, who shall be styled the faculty of the university, and such other officers as the interest of the university may require; to remove such instructors or officers, and to fix their salaries or compensation, and increase or reduce the same at their discretion; to institute, regulate, alter or modify the government of the university, as it may deem advisable.

ALA. CODE § 16-47-34 (2012) (emphasis added). This section specifically authorizes the Board to appoint and remove officers at its discretion.

The Board organized the University of Alabama System (“System”) such that the activities and the affairs of each campus are administered by a campus President who reports directly to the System’s Chancellor, who is responsible for the overall coordination of System affairs and who reports directly to the Board. *See Bylaws of the Board of Trustees of The University of Alabama*, art. V., sec. 1, 2. These positions were authorized under the bylaws of the Board pursuant to its broad constitutional power to manage and control the university and its broad legislative power to “institute, regulate, alter or modify the government of the university, as it deems advisable.” ALA. CODE § 16-47-34 (2012).

The Alabama Supreme Court has recognized and affirmed that the University of Alabama is under the management and control of the Board

Honorable Sid J. Trant
Page 3

and that the Legislature has no authority by act to deprive the Board of their discretion as to such management and control. *Opinion of the Justices*, 417 So. 2d 946 (Ala. 1982).

The Recompile Constitution of Alabama and section 16-47-34 provide that the Board has the exclusive authority over the selection, appointment, and removal of the Chancellor and any other administrative officers, such as campus Presidents. The power to appoint and/or remove officers is unqualified and cannot be modified or diminished without a constitutional amendment. This Office does not address whether the officers have any rights under possible employment contracts with the Board or System.

CONCLUSION

The Board has the exclusive and discretionary constitutional authority to appoint and/or remove individuals to serve as its chief administrative officers, including its Chancellor and campus Presidents. No legislative act may diminish or modify that authority.

I hope this opinion answers your question. If this Office can be of further assistance, please contact me.

Sincerely,

STEVE MARSHALL
Attorney General
By:

A handwritten signature in dark ink, appearing to read "G. Ward Beeson, III". The signature is fluid and cursive, with the last name "Beeson" being the most prominent part.

G. WARD BEESON, III
Chief, Opinions Division

SM/BFS/as
2587429/206901